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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,939	09/09/2003	Hamid Ould-Brahim	42871-0004	1612
23577	7590	12/05/2007		
RIDOUT & MAYBEE SUITE 2400 ONE QUEEN STREET EAST TORONTO, ON M5C3B1 CANADA			EXAMINER HOANG, HIEU T	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 12/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/657,939

Applicant(s)

OULD-BRAHIM, HAMID

Examiner

Hieu T. Hoang

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

BUNJOB JARDENCHONWANIT
SUPERVISORY PATENT EXAMINER

Response to Arguments

The first argument is on pages 9 and 10 of the Remarks wherein the applicant argues that the prior art does not disclose "allow said elements of said first subset of elements to establish layer-3 peering with said second set of elements to exchange routing information." First, the reference D. Meyer, "SPEERMINT Terminology" is not considered because no IDS related to this reference has been submitted. Second, the limitation recites establishing layer-3 peering between Customer Edge devices and Provider Edge devices to exchange routing information. The applicant refers to layer-3 peering as BGP routing information exchange between CE and PE (specification, fig. 4, CE-PE link 407 is a L3 BGP "link"). The cited prior art Ould-Brahim discloses using BGP to exchange port information (or routing information, given its broadest reasonable interpretation) between CEs and PEs (Ould-Brahim, fig. 2, p. 6 last par. to p. 7 par. 5). Therefore, it is respectfully submitted that the prior art does disclose "allow said elements of said first subset of elements to establish layer-3 peering with said second set of elements to exchange routing information."

The second argument is on pages 10-12 of the Remarks wherein the applicant argues that the prior art does not disclose "Layer-2 connectivity between elements within said first subset of elements at the Layer-2 level across said Layer-3 VPN service." Overall, the applicant argues that optical VPN is layer-1 VPN and not layer-3. Claim 1 recites in the third limitation that "said second subset of elements implementing a Layer-3 VPN service;" therefore, it is vague that the applicant argues "the CEs are not

members of a Layer-2 VPN but, instead, are members of a layer-1 VPN" (last sentence on page 10).

The previous office action has clearly pointed out that Layer-3 VPN is serviced among PEs (Ould-Brahim, fig. 2, p.6 par. 5 and 6, BGP route distribution from a PE ONE to other PE ONEs in a VPN). This BGP reachability distribution among backbone PEs is totally analogous to how the applicant describes a Layer-3 VPN (see specification, page 8, [0051], [0052], L3 VPN key objective is to construct a reachability distribution using VPN though the backbone BGP). Furthermore, routing is inherently a characteristic of a layer-3 network layer (referencing OSI 7-layer network model).

Ould-Brahim discloses a Layer-2 MPLS signaling mechanism wherein the CE signals to request the provider network to establish a connection to a target port—a destination port of another CE in the same VPN (page 7 par. 6). This signaling mechanism is layer-2 while the provider network functions based on Layer-3 BPG (page 6 par. 5), therefore reading on "Layer-2 connectivity between elements within said first subset of elements at the Layer-2 level across said Layer-3 VPN service."

HH